

CHAPTER NO. 813

SENATE BILL NO. 2159

By Cohen

Substituted for: House Bill No. 2113

By Buck

AN ACT To amend Tennessee Code Annotated, Title 16, Chapter 3, Part 8 and Title 40, relative to pretrial diversion.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 15, Part 1, is amended by adding the following as a new section:

40-15-10_. The Administrative Office of the Courts, in consultation with the Tennessee District Attorneys General Conference and the Tennessee Association of Criminal Defense Lawyers, shall create a statewide uniform application for use in pretrial diversion.

SECTION 2. Tennessee Code Annotated, Section 40-15-105(a)(1)(B)(i)(a), is amended by deleting the language "provisions of this chapter" and substituting instead the language "provisions of this chapter or judicial diversion under the provisions of Tennessee Code Annotated, Section 40-35-313".

SECTION 3. Tennessee Code Annotated, Section 40-15-105(a)(1)(B)(i)(c), is amended by deleting the language "Class A or Class B felony" and substituting instead the language "Class A or Class B felony or a Class C felony as defined in this subsection".

SECTION 4. Tennessee Code Annotated, Section 40-15-105(a)(1)(B)(ii), is amended by deleting the language "(a)(1)(B)(iii)" and substituting instead the language "(a)(1)(B)(i)".

SECTION 5. Tennessee Code Annotated, Section 40-15-105(a)(1)(B), is further amended by adding the following new item:

(iii) As used in subdivision (a)(1)(B)(i), "Class C felony" means conduct which constitutes:

(a) Aggravated assault resulting in serious bodily injury, as described in § 39-13-102(a)(1)(A);

(b) Voluntary manslaughter, as described in § 39-13-211;

(c) Robbery, as described in § 39-13-401;

(d) Aggravated burglary, as described in § 39-14-403;

(e) Bribery of a public servant, as described in § 39-16-102;

(f) Buying and selling in regard to public offices, as described in § 39-16-105;

(g) Bribing a witness, as described in § 39-16-107;

(h) Bribing a juror, as described in § 39-16-108;

(i) Introduction of weapons, explosives, intoxicants or drugs into a state, county, or municipal institution where prisoners are quartered, as described in § 39-16-201(a)(1); or

(j) Adulteration of foods, liquids or pharmaceuticals, as described in § 39-17-107.

SECTION 6. Tennessee Code Annotated, Section 40-15-105(a)(3), is amended by deleting the subsection in its entirety and substituting instead the following:

(3) The memorandum of understanding may include stipulations concerning the admissibility in evidence of specified testimony, evidence or depositions if the suspension of the prosecution is terminated and there is a trial on the charge. The memorandum of understanding shall also include a statement of the defendant's version of the facts of the alleged offenses. The defendant's statement of the facts relative to the charged offenses shall not be admissible as substantive evidence in any civil or criminal proceeding against the defendant who made the statement. However, evidence of the statement is admissible as impeachment against the defendant who made the statement in any criminal proceeding resulting from the termination of the memorandum of understanding pursuant to Section 40-15-105(d). No other confession or admission of the defendant obtained during the pendency of and relative to the charges contained in the memorandum of understanding shall be admissible in evidence for any purpose, other than cross-examination of the defendant. The memorandum of understanding shall be in writing signed by the parties and shall state that the defendant waives the defendant's right to a speedy trial, and the defendant's right to be indicted at any particular term of court. This filing shall toll any applicable statute of limitations during the pendency of the diversionary period.

SECTION 7. Tennessee Code Annotated, Section 40-35-313(a)(1)(B)(i)(a), is amended by deleting the language "or pleads guilty" and substituting instead the language "or pleads guilty or nolo contendere".


SECTION 8. This act shall take effect July 1, 2000, the public welfare requiring it, and shall only apply to applicable offenses committed on or after July 1, 2000.

PASSED: May 17, 2000


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 24th day of May 2000


DON S. QUIGLEY, GOVERNOR